

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No 992 of 1990

For Approval and Signature:

Hon'ble MR.JUSTICE M.H.KADRI

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1. Whether Reporters of Local Papers may be allowed  
to see the judgements?No
2. To be referred to the Reporter or not?  
No

3. J  
Whether Their Lordships wish to see the fair copy  
of the judgement? No
4. Whether this case involves a substantial question  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder?  
No
5. Whether it is to be circulated to the Civil Judge?  
No

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RAJENDRA NANDLAL

Versus

Appearance:

Petitioner served

Mr. K.P. Rawal, APP, for Respondent No. 1

MR PM RAVAL for Respondent No. 2

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CORAM : MR.JUSTICE M.H.KADRI

Date of decision: 17/02/98

ORAL JUDGEMENT

The petitioner has filed this petition under Article 227 of the Constitution of India for issuance of a writ or direction quashing the process issued in Criminal Case No.1743/88 against the petitioner for the offence punishable under Section 52(B) of the Bombay Shops & Establishment Act, 1948 ('Act' for short).

Mr. H.R. Jadav, Shop Inspector, Amreli Municipality, had filed complaint against the petitioner for the breach committed under the Act as he had kept open his shop on October 2, 1988 which was a holiday. The said complaint came to be registered as Criminal Case No.1743/88 in the court of the learned Chief Judicial Magistrate, Amreli. Summons came to be issued against the petitioner, and he had filed an application Exh.3 to drop the proceedings and for discharge. The said application (Exh.3) came to be rejected by the learned Chief Judicial Magistrate, Amreli, by judgment and order dated June 16, 1989. The petitioner challenged the said judgment and order of learned Chief Judicial Magistrate, by filing Criminal Revision Application No.38 of 1989, in the court of Sessions Judge at Amreli. The learned Sessions Judge, Amreli, by his judgment and order dated May 19, 1990, dismissed the revision application filed by the petitioner, by confirming the judgment and order dated June 16, 1989 passed by learned Chief Judicial Magistrate, Amreli, below application (Exh.3) in Criminal Case No.1743/88. Against the judgments and orders of the trial court and the lower appellate court, the petitioner has filed the present Special Criminal Application.

I have gone the judgments and orders passed by the courts below. The petitioner was found to have committed offence under the Act, as he had kept his shop open on a holiday. Both the courts below have found that the complaint, prima facie, discloses offence and,

therefore, the petitioner was not entitled to be discharged and the proceedings were not liable to be dropped. I do not find any illegality in the orders of the courts below. No interference is called for by this Court in exercise of its powers under Article 227 of the Constitution of India. Both the impugned judgments of the courts below are legal and no error apparent on the face of record is committed by the courts below. I do not find any merit in this application and the same deserves to be rejected.

As a result of foregoing discussion, this Special Criminal Application is rejected. Rule is discharged. Interim relief stands vacated.

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(swamy)